

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 678 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

=====

-----  
M/S. MUDRA COMMUNICATIONS

Versus

STATE OF GUJARAT

-----  
Appearance:

MR AD SHAH for Petitioners

Mr.S.T.Mehta, LAPP for Respondent No. 1

MR DF AMIN for Respondent No. 2

-----  
CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 03/07/97

ORAL JUDGEMENT

Respondent no.2, proprietor of an advertising firm, filed a complaint before the learned JMFC, Baroda where the learned Magistrate was pleased to pass an order that inquiry under Sec.156(3) be carried out by the police inspector of J.P.Police Station. This order is dated 10-4-1997. It is against this order of investigation under Sec.156(3) that the present petition has been filed on 27th May 1997 where interim order to stay the investigation was obtained and Rule having been issued, the matter is taken up for final hearing today.

2. The grievance is that the complainant had entered into a transaction in connection with out-door publicity in respect of a public issue of one Messrs Parekh Platinums Limited. Some outstanding amount, according to the complainant was payable by the respondent Company and they having failed to pay and the complainant having realised that fraud has been practised on them and the circumstances indicated that it is in the nature of

cheating which amounts to an offence under the relevant provision of Indian Penal Code, complaint came to be filed. However, the letters which are produced by the petitioner starting from page 30 dated 22nd August 1995 followed by letter of 26th May 1997, Annexure A page 15, in between that, exchange of notice communication from 19th of April 1996, clearly indicate that this is a dispute of civil nature. As the dispute is pending between the parties, I have refrained myself from going into the details of these various letters. However, it is nothing else, but a dispute between the contracting parties as to the non payment of services rendered. Whoever be responsible, according to the terms of the contract between the parties, shall be answerable but that will certainly be before a civil Court, if the dispute is not resolved by the parties on their own.

3. So far as the proposed criminal action is concerned, obviously, it would not lie. It is therefore, quashed and the said order of the trial Court is set aside. The proceedings under M.Case No.19/97 of JP Road Police Station, is quashed.

4. Before parting with the order, it is indeed curious that the respondent complainant is having its office on R.C.Dutt Road, Baroda 390 005 and the investigation is entrusted specifically to the Police Station at J.P.Road for which the office is directed to obtain explanation from the concerned Magistrate and place on record.

5. Rule is made absolute accordingly.

\*\*\*\*\*

gmk